

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Parker) Confirmation No: 1596
)
Serial No.: 10/735,099) Group Art Unit: 2614
)
Filed: December 12, 2003) Examiner: Al Aubaidi, Rasha S.
)
For: WORKFORCE PLANNING SYSTEM INCORPORATING HISTORIC CALL- CENTER RELATED DATA) Atty. Docket No.: 190250-1710

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed MARCH 17, 2008, responding to the final Office Action mailed October 1, 2007.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 20-0778.

I. Real Party in Interest

The real party in interest is AT&T Intellectual Property I, L.P., a partnership organized and existing under the laws of the State of Nevada having a place of business at 645 E. Plumb Lane, Reno, Nevada 89502, where the present application was recently acquired from AT&T Delaware Intellectual Property Inc., formerly known as BellSouth Intellectual Property Corporation, a Corporation of the State of Delaware, having a place of business at 824 Market Street, Suite 425, Wilmington, DE 19801.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 1-36 stand finally rejected. No claims have been allowed. The rejections of claims 1-36 are appealed.

IV. Status of Amendments

No amendments have been made subsequent to the final office action mailed October 1, 2007. No claims have been amended during prosecution. The claims in the attached Claims Appendix (see below) reflect the present state of Applicant's claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description (“specification”) and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Embodiments according to independent claim 1 describe a workforce planning system (FIG. 1, 100; FIG. 3, 300). The system comprises logic configured to obtain from a communication switch (FIG. 1, 110), a first call-history statistic of a first period of time (FIG. 6, 605). Applicant’s Specification, page 17, lines 13-21. The system further comprises logic configured to obtain from a call center, a first work-history statistic of the first period of time (FIG. 6, 610). Applicant’s Specification, page 17, lines 22-29. The system further comprises logic configured to process at least one of the first call-history statistic and the first work-history statistic (FIG. 6, 615). Applicant’s Specification, page 17, line 30-page 18, line 5. The system further comprises logic configured to generate a performance report comprising a first past performance statistic (FIG. 6, 620). Applicant’s Specification, page 18, lines 6-14.

Embodiments according to independent claim 13 describe a method of workforce planning in a workforce management system (FIG. 1, 100; FIG. 3, 300). The method comprises obtaining from a communication switch (FIG. 1, 110), a first call-history statistic of a first period of time (FIG. 6, 605). Applicant’s Specification, page 17, lines 13-21. The method further comprises obtaining from a call center, a first work-history statistic of the first period of time (FIG. 6, 610). Applicant’s Specification, page 17, lines 22-29. The method further comprises processing at least one of the first call-history

statistic and the first work-history statistic (FIG. 6, 615). Applicant's Specification, page 17, line 30-page 18, line 5. The method further comprises generating a performance report comprising a first past performance statistic (FIG. 6, 620). Applicant's Specification, page 18, lines 6-14.

Embodiments according to independent claim 25 describe a workforce planning system stored on a computer readable medium (FIG. 1, 100; FIG. 3, 300). The system comprises computer-readable code that obtains from a communication switch (FIG. 1, 110), a first call-history statistic of a first period of time (FIG. 6, 605). Applicant's Specification, page 17, lines 13-21. The system further comprises computer-readable code that obtains from a call center, a first work-history statistic of the first period of time (FIG. 6, 610). Applicant's Specification, page 17, lines 22-29. The system further comprises computer-readable code that processes at least one of the first call-history statistic and the first work-history statistic (FIG. 6, 615). Applicant's Specification, page 17, line 30-page 18, line 5. The system further comprises computer-readable code that generates a performance report comprising a first past performance statistic (FIG. 6, 620). Applicant's Specification, page 18, lines 6-14.

VI. Grounds of Rejection to be Reviewed on Appeal

The following grounds of rejections are to be reviewed on appeal:

Claims 1-36 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Leamon* (U.S. Patent No. 6,970,829).

VII. Arguments

The Appellant respectfully submits that Applicant's claims 1-36 are patentable. The Appellant respectfully requests that the Board of Patent Appeals overturn the rejection of those claims at least for the reasons discussed below.

A. The *Leamon* Disclosure

Leamon describes a method and system for skills-based planning and scheduling in a workforce center environment.

B. Applicant's Claims 1-12

As recited in independent claim 1, Applicant claims:

A workforce planning system, the system comprising:

logic configured to obtain from a communication switch, a first call-history statistic of a first period of time;

logic configured to obtain from a call center, a first work-history statistic of the first period of time;

logic configured to process at least one of the first call-history statistic and the first work-history statistic; and

logic configured to generate a performance report comprising a first past performance statistic.

(Emphasis added).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Leamon* does not disclose, teach, or suggest at least **logic configured to obtain from a communications switch, a first call-history statistic of a first period of time**. The Final Office Action alleges that obtaining call-history statistics from a communication switch is inherent to the disclosure of *Leamon*. However, Applicant respectfully disagrees. The Office Action argues that *Leamon* inherently discloses a

communication switch. See Office Action of October 1, 2007, page 2. However, Applicant respectfully submits that it is not inherent that the statistics are obtained from the switch. "Anticipation by inherency requires that 1) the missing descriptive matter be 'necessarily present' in the prior art reference ..." *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264 (Fed. Cir. 1991). In other words, for something to be inherent to a disclosure, it must be the only way that something can be done – it must be necessarily present. Applicant respectfully submits that instead of obtaining the statistics from the communication switch, the call history statistics could be captured by call-center personnel and entered into a database from which the call-history statistics could be obtained.

The Advisory Action also states that to refute the Examiner's allegation of inherency, the "Applicant must refer to certain [sic] section in the Leamon reference that teaches or at least suggest [sic] this limitation." See *Advisory Action*, page 3. Applicant respectfully submits that this requirement by the Examiner does not follow the law in regard to inherency. For something to be inherent in a disclosure, as provided above, it must necessarily be present. Therefore, if the Applicant can show the possibility that the statistics can be collected in a manner other than from the communication switch, the alleged inherency is disproved. Applicant has offered an alternative method of collecting call history statistics (data is collected by call-center personnel and entered into a database from which the call-center statistics, such as work times and wait times, could be obtained) using the system disclosed in *Leamon*. Therefore, obtaining the call history statistics from the communications switch is not necessary, and not inherent to

the disclosure of *Leamon*. Therefore, *Leamon* does not anticipate independent claim 1, and the rejection should be withdrawn for at least that reason.

For at least the reasons given above, claim 1 is allowable over the cited art of record. Since claims 2-12 depend from and include all of the features of claim 1 and recite additional features, claims 2-12 are allowable as a matter of law over the cited art of record. Therefore, the rejections of claims 1-12 should be overturned.

C. Applicant's Claims 13-24

As recited in independent claim 13, Applicant claims:

A method of workforce planning in a workforce management system, the method comprising:

obtaining from a communication switch, a first call-history statistic of a first period of time;

obtaining from a call center, a first work-history statistic of the first period of time; processing at least one of the first call-history statistic and the first work-history statistic; and

generating a performance report comprising a first past performance statistic.

(Emphasis added).

Applicant respectfully submits that independent claim 13 is allowable for at least the reason that *Leamon* does not disclose, teach, or suggest at least ***obtaining from a communication switch, a first call-history statistic of a first period of time***. The Final Office Action alleges that obtaining call-history statistics from a communication switch is inherent to the disclosure of *Leamon*. However, Applicant respectfully disagrees. The Office Action argues that *Leamon* inherently discloses a communication switch. See Office Action of October 1, 2007, page 2. However, Applicant respectfully submits that it is not inherent that the statistics are obtained from the switch.

"Anticipation by inherency requires that 1) the missing descriptive matter be 'necessarily

present' in the prior art reference ..." *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264 (Fed. Cir. 1991). In other words, for something to be inherent to a disclosure, it must be the only way that something can be done – it must be necessarily present. Applicant respectfully submits that instead of obtaining the statistics from the communication switch, the call history statistics could be captured by call-center personnel and entered into a database from which the call-history statistics could be obtained.

The Advisory Action also states that to refute the Examiner's allegation of inherency, the "Applicant must refer to certain [sic] section in the Leamon reference that teaches or at least suggest [sic] this limitation." See *Advisory Action*, page 3. Applicant respectfully submits that this requirement by the Examiner does not follow the law in regard to inherency. For something to be inherent in a disclosure, as provided above, it must necessarily be present. Therefore, if the Applicant can show the possibility that the statistics can be collected in a manner other than from the communication switch, the alleged inherency is disproved. Applicant has offered an alternative method of collecting call history statistics (data is collected by call-center personnel and entered into a database from which the call-center statistics, such as work times and wait times, could be obtained) using the system disclosed in *Leamon*. Therefore, obtaining the call history statistics from the communications switch is not necessary, and not inherent to the disclosure of *Leamon*. Therefore, *Leamon* does not anticipate independent claim 1, and the rejection should be withdrawn for at least that reason.

For at least the reasons given above, claim 13 is allowable over the cited art of record. Since claims 14-24 depend from and include all of the features of claim 13 and

recite additional features, claims 14-24 are allowable as a matter of law over the cited art of record. Therefore, the rejections of claims 13-24 should be overturned.

D. Applicant's Claims 25-36

As recited in independent claim 25, Applicant claims:

A workforce planning system stored on a computer-readable medium, the system comprising:

computer-readable code that obtains from a communication switch, a first call-history statistic of a first period of time;

computer-readable code that obtains from a call center, a first work-history statistic of the first period of time;

computer-readable code that processes at least one of the first call-history statistic and the first work-history statistic; and

computer-readable code that generates a performance report comprising a first past performance statistic.

(Emphasis added).

Applicant respectfully submits that independent claim 25 is allowable for at least the reason that *Leamon* does not disclose, teach, or suggest at least ***computer-readable code that obtains from a communication switch, a first call-history statistic of a first period of time***. The Final Office Action alleges that obtaining call-history statistics from a communication switch is inherent to the disclosure of *Leamon*. However, Applicant respectfully disagrees. The Office Action argues that *Leamon* inherently discloses a communication switch. See Office Action of October 1, 2007, page 2. However, Applicant respectfully submits that it is not inherent that the statistics are obtained from the switch. "Anticipation by inherency requires that 1) the missing descriptive matter be 'necessarily present' in the prior art reference ..." *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264 (Fed. Cir. 1991). In other words, for something to be inherent to a disclosure, it must be the only way that something can be done – it

must be necessarily present. Applicant respectfully submits that instead of obtaining the statistics from the communication switch, the call history statistics could be captured by call-center personnel and entered into a database from which the call-history statistics could be obtained.

The Advisory Action also states that to refute the Examiner's allegation of inherency, the "Applicant must refer to certain [sic] section in the *Leamon* reference that teaches or at least suggest [sic] this limitation." See *Advisory Action*, page 3. Applicant respectfully submits that this requirement by the Examiner does not follow the law in regard to inherency. For something to be inherent in a disclosure, as provided above, it must necessarily be present. Therefore, if the Applicant can show the possibility that the statistics can be collected in a manner other than from the communication switch, the alleged inherency is disproved. Applicant has offered an alternative method of collecting call history statistics (data is collected by call-center personnel and entered into a database from which the call-center statistics, such as work times and wait times, could be obtained) using the system disclosed in *Leamon*. Therefore, obtaining the call history statistics from the communications switch is not necessary, and not inherent to the disclosure of *Leamon*. Therefore, *Leamon* does not anticipate independent claim 1, and the rejection should be withdrawn for at least that reason.

For at least the reasons given above, claim 25 is allowable over the cited art of record. Since claims 26-36 depend from and include all of the features of claim 25 and recite additional features, claims 26-36 are allowable as a matter of law over the cited art of record. Therefore, the rejections of claims 25-36 should be overturned.

Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied cited art references and that the rejection of these claims should be overturned. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

By: _____/CWG/_____
Charles W. Griggers
Registration No. 47,283

VIII. CLAIMS-APPENDIX

The following are the claims that are involved in this Appeal.

1. A workforce planning system, the system comprising:
logic configured to obtain from a communication switch, a first call-history statistic
of a first period of time;
logic configured to obtain from a call center, a first work-history statistic of the
first period of time;
logic configured to process at least one of the first call-history statistic and the
first work-history statistic; and
logic configured to generate a performance report comprising a first past
performance statistic.
2. The system of claim 1, wherein the first call-history statistic comprises a total
number of calls routed by the communication switch to the call center over the first
period of time.
3. The system of claim 1, wherein the first call-history statistic comprises a total
number of a first type of calls routed by the communication switch to the call center over
the first period of time.

4. The system of claim 1, wherein the first work-history statistic comprises an actual work time of the call center over the first period of time, and the first past performance statistic is a first workforce occupancy.

5. The system of claim 1, further comprising:
logic configured to provide a first work-planning input;
logic configured to process the first work-planning input together with the first report; and
logic configured to generate a forecast report comprising a first predictive workforce statistic.

6. The system of claim 5, wherein the first work-planning input comprises at least one of a first number of operators over a first forecast period, a change in call volume over the first forecast period, an attendance statistic of the first number of operators over the first forecast period, and a performance statistic of the first number of operators over the first forecast period.

7. The system of claim 5, wherein the first predictive workforce statistic comprises at least one of an actual work time of a first number of operators over a first forecast period, an occupancy of the first number of operators over the first forecast period, and a forecast of a number of operators required for call handling during the first forecast period.

8. The system of claim 5, wherein the performance report provides the first work-planning input.
9. The system of claim 5, wherein the first work-planning input comprises a first number of operators during a first forecast period and a second number of operators during a second forecast period.
10. The system of claim 9, wherein the performance report provides the work-planning input.
11. The system of claim 5, wherein the first work-planning input comprises a first number of operators having a first level of performance during a first forecast period and a second level of performance during a second forecast period.
12. The system of claim 11, wherein the performance report provides the work-planning input.

13. A method of workforce planning in a workforce management system, the method comprising:

obtaining from a communication switch, a first call-history statistic of a first period of time;

obtaining from a call center, a first work-history statistic of the first period of time;

processing at least one of the first call-history statistic and the first work-history statistic; and

generating a performance report comprising a first past performance statistic.

14. The method of claim 13, wherein the first call-history statistic comprises a total number of calls routed by the communication switch to the call center over the first period of time.

15. The method of claim 13, wherein the first call-history statistic comprises a total number of a first type of calls routed by the communication switch to the call center over the first period of time.

16. The method of claim 13, wherein the first work-history statistic comprises an actual work time of the call center over the first period of time, and the first past performance statistic is a first workforce occupancy.

17. The method of claim 13, further comprising:
providing a first work-planning input;
processing the first work-planning input together with the first report; and
generating a forecast report comprising a first predictive workforce statistic.
18. The method of claim 17, wherein the first work-planning input comprises at least one of a first number of operators over a first forecast period, a change in call volume over the first forecast period, an attendance statistic of the first number of operators over the first forecast period, and a performance statistic of the first number of operators over the first forecast period.
19. The method of claim 17, wherein the first predictive workforce statistic comprises at least one of an actual work time of a first number of operators over a first forecast period, an occupancy of the first number of operators over the first forecast period, and a forecast of a number of operators required for call handling during the first forecast period.
20. The method of claim 17, wherein the performance report provides the first work-planning input.

21. The method of claim 17, wherein the first work-planning input comprises a first number of operators during a first forecast period and a second number of operators during a second forecast period.

22. The method of claim 21, wherein the performance report provides the work-planning input.

23. The method of claim 17, wherein the first work-planning input comprises a first number of operators having a first level of performance during a first forecast period and a second level of performance during a second forecast period.

24. The method of claim 23, wherein the performance report provides the work-planning input.

25. A workforce planning system stored on a computer-readable medium, the system comprising:

computer-readable code that obtains from a communication switch, a first call-

history statistic of a first period of time;

computer-readable code that obtains from a call center, a first work-history

statistic of the first period of time;

computer-readable code that processes at least one of the first call-history

statistic and the first work-history statistic; and

computer-readable code that generates a performance report comprising a first past performance statistic.

26. The system of claim 25, wherein the first call-history statistic comprises a total number of calls routed by the communication switch to the call center over the first period of time.

27. The system of claim 25, wherein the first call-history statistic comprises a total number of a first type of calls routed by the communication switch to the call center over the first period of time.

28. The system of claim 25, wherein the first work-history statistic comprises an actual work time of the call center over the first period of time, and the first past performance statistic is a first workforce occupancy.

29. The system of claim 25, further comprising:
computer-readable code that provides a first work-planning input;
computer-readable code that processes the first work-planning input together
with the first report; and
computer-readable code that generates a forecast report comprising a first
predictive workforce statistic.

30. The system of claim 29, wherein the first work-planning input comprises at least one of a first number of operators over a first forecast period, a change in call volume over the first forecast period, an attendance statistic of the first number of operators over the first forecast period, and a performance statistic of the first number of operators over the first forecast period.

31. The system of claim 29, wherein the first predictive workforce statistic comprises at least one of an actual work time of a first number of operators over a first forecast period, an occupancy of the first number of operators over the first forecast period, and a forecast of a number of operators required for call handling during the first forecast period.

32. The system of claim 29, wherein the performance report provides the first work-planning input.

33. The system of claim 29, wherein the first work-planning input comprises a first number of operators during a first forecast period and a second number of operators during a second forecast period.

34. The system of claim 33, wherein the performance report provides the work-planning input.

35. The system of claim 29, wherein the first work-planning input comprises a first number of operators having a first level of performance during a first forecast period and a second level of performance during a second forecast period.

36. The system of claim 35, wherein the performance report provides the work-planning input.

IX. EVIDENCE-APPENDIX

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

X. RELATED PROCEEDINGS-APPENDIX

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.